

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 09-60331-CR-COHN

UNITED STATES OF AMERICA,

v.

SCOTT W. ROTHSTEIN,

Defendant.

PROTECTIVE ORDER

THIS MATTER is before the Court upon the motion of the United States of America for entry of a Post Information Protective Order pursuant to Title 18, United States Code, Section 1963, and Title 21, United States Code, Section 853(e)(1)(A). The Court having reviewed the *Ex Parte* Motion for Protective Order and Memorandum of Law, and the Affidavit of Special Agent Lisa Klitz, and being otherwise fully advised in the premises, finds that:

1. The United States seeks the protective order to prevent the transfer, alienation, encumbrance or dissipation of the subject property by the defendant or any third party which would render said property unavailable for forfeiture;
2. The submission of the *ex parte* motion is appropriate and supported by statutory authority and case law;
3. Probable cause has been shown for the entry of a protective order to preserve the property named in the Information, as listed on Exhibit A hereto, for forfeiture;
4. The Court has authority to issue a Post-Information Protective Order pursuant to 18 U.S.C. § 1963(d)(1)(A) and 21 U.S.C. § 853(e)(1)(A);

5. The need to preserve the availability of the subject property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered; and

6. Any third party claims to the subject property may be properly brought and resolved in ancillary proceedings conducted by this Court following the execution of a Preliminary Order of Forfeiture in accordance with the provisions of federal forfeiture law.

Accordingly, it is hereby ORDERED and ADJUDGED that:

A. Effective immediately, defendant, his agents, servants, employees, attorneys, family members and those persons in active concert or participation with him, and those persons, financial institutions, or other entities who have any interest or control over the subject property listed in Exhibit A, are hereby RESTRAINED, ENJOINED, AND PROHIBITED, without prior approval of this Court and upon notice to the United States and an opportunity for the United States to be heard, from attempting or completing any action that would affect the availability, marketability or value of said property, including but not limited to withdrawing, transferring, selling, assigning, pledging, distributing, encumbering, wasting, secreting, depreciating, damaging, or in any way diminishing the value of, all or any part of their interest, direct or indirect, in the following property:

SEE EXHIBIT A

B. Property owner(s) are required to maintain the present condition of the real properties subject to this Order, including timely payment of all mortgage payments, and insurance, utilities, taxes, and assessments until further order of this Court.

C. Any financial institutions, other entities or individuals, holding mortgages on real properties subject to this Order shall respond promptly to requests by the Government for information on said mortgage's current status. No action shall be taken to foreclose against the real

properties;

D. Any financial institutions, other entities or individuals, holding liens on the vehicles and vessels subject to this Order shall respond promptly to requests by the Government for information on the current status of said liens. No action shall be taken to accelerate any loans on the vehicles and vessels in question;

E. Any financial institutions holding accounts subject to this Order shall respond promptly to requests by the Government for information on said accounts' current status.

F. Any persons or entities having an interest in those business interests named as subject to forfeiture, shall respond promptly to requests by the Government for information on the status of said business interests.

G. The Secretary of the Treasury or his designee, or other authorized agent of the United States shall promptly serve a copy of this Protective Order upon defendant, and make a return thereon reflecting the date and time of service. Notice of the entry of this Order shall be given to known institutions, entities or individuals, having an interest in the subject property, where such interest is defined as a "legal interest" and not merely an interest as a creditor of defendant. Such notice may be given by facsimile transmission.

H. This Protective Order shall remain in full force and effect until further order of this Court.

DONE AND ORDERED in Chambers, this _____ day of December, 2009.

JAMES I. COHN
UNITED STATES DISTRICT JUDGE